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January 29, 2014

VIA EMAIL

Honorable Katherine Polk Failla
United States District Judge
United States Courthouse
40 Foley Square
New York, New York 10007

MEMO ENDORSED

Re: Eastman Chemical Co. v. Nestlé Waters Mgmt. & Tech., 11 CV 2589 (KPF) (HBP)

Dear Judge Failla:

On behalf of defendant Nestlé Waters Management & Technology ("Nestlé"), we write as a follow-up to the parties' December 18, 2013 appearance before the Court and in connection with Your Honor's December 18, 2013 Order (the "Order").

First, Nestlé will not be supplementing its own expert's report. Nestlé previously advised plaintiff's counsel of this decision.

Second, Nestlé has evaluated plaintiff's supplemental expert report, dated December 17, 2013 and has requested a pre-motion conference before Magistrate Judge Pitman in connection with its contemplated motion to strike the report.

Third, the parties have scheduled an additional deposition of plaintiff's expert witness for February 4, 2014. We respectfully request that Your Honor extend the January 31, 2014 deadline set forth in the Order to and including February 4, 2014 so that the parties may complete the deposition. Plaintiff has no objection to this request.

Fourth, Nestlé wishes to advise the Court that it intends to move under *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. 579 (1993) to exclude the expert testimony and reports of plaintiff's two proposed experts.

Fifth, Nestlé intends to file objections to Magistrate Judge Pitman's January 21, 2014 Order denying Nestlé's motion to amend its answer. While Nestlé only recently received the relevant transcript, Nestlé believes that it can still file its objections by the February 4, 2014 deadline when they are presently due.

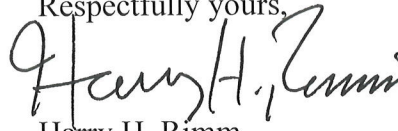
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Finally, we respectfully request a conference, in person or by telephone, to discuss these items and related scheduling, especially the order of briefing on the motions.

Respectfully yours,



Harry H. Rimm

cc: Marshall Beil, Esq. (Via Email)

The deadline for Defendant to depose Plaintiff's expert witness is hereby ADJOURNED from January 31, 2014, to February 4, 2014.

Dated: January 31, 2014
New York, New York

SO ORDERED.



HON. KATHERINE POLK FAILLA
UNITED STATES DISTRICT JUDGE